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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,252	07/06/2003	Dennis R. Sigl	ITW7510.070	1251
33647	7590	11/05/2004	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (ITW) 14135 NORTH CEDARBURG ROAD MEQUON, WI 53097				CHERVINSKY, BORIS LEO
ART UNIT		PAPER NUMBER		
		2835		

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/604,252	SIGL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Boris L. Chervinsky	2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 October 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6, 7, 8, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Buller et al.

Buller discloses the extruded heat sink for use in cooling an electronic component 4, the heat sink having a body or base with two sides with a flat planar surface and two laterally facing exterior surfaces, a plurality of fins 36 extending outwardly from the body and being elongated in the direction along the two lateral exterior surfaces, each of the lateral surfaces having elongated ridges formed by the groove 34 thereabout extending the full length of the lateral exterior surfaces, the elongated ridges constructed to removably engage the retention means 28 for receiving the heat sink to the frame 2; the heat sink does not have any surface holes and since being extruded (col. 3, line 3) does not need any machining and the retainer maintains contact between the side of the heat sink and the component; the grooves are coplanar.

3. Claims 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Earl et al.

Earl discloses the heat sink comprising a base 13 with the first and the second ends contacting the component 30, the pair of surfaces 18 and 20 extending a length above

the base 13 from the first and the second ends of the base and generally thicker than the fins 12, the plurality of fins 12 perpendicularly extending from the base 13 between the pair of external surfaces 18, 20 and extending a length different than the length of the external surfaces 18, 20 that is approximately half of the length of the plurality of fins 12, the retainer 40 is engaging each of the pair of external surfaces 18, 20.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buller et al.

Buller discloses the claimed invention except aluminum as the material for the heat sink. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the heat sink of aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buller et al. in view of Earl et al.

Buller discloses the claimed invention except having the second fin extending from the first and the last fins and the plurality of fins extend a distance from the base longer than

the distance between the first and the last fins. Earl discloses the heat sink having the second fin extending from the first and the last fins and the plurality of fins 12 extends a distance from the base longer than a distance between the first and the last fins 18, 20. It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange fins as disclosed by Earl et al in the device disclosed by Buller et al. for placing more fins on the same surface and improve heat dissipation.

7. Claims 16, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Earl et al.

Earl discloses the claimed invention except aluminum as the material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the heat sink of aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Earl et al. in view of Buller et al.

Earl discloses the claimed invention except having the retainer to be removably engageable without any tools. Buller discloses the heat sink being removably engageable without any tools. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the heat sink as disclosed by Earl et al. engageable as disclosed by Buller et al. for easy reinstallation.

***Double Patenting***

The provisional double patenting rejection has been withdrawn at this time.

**Response to Arguments**

8. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.
9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., removal of the heat sink without a tool) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**Conclusion**

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris L. Chervinsky whose telephone number is 571-272-2039. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on 571-272-2800 ext. 35. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**BORIS CHERVINSKY  
PRIMARY EXAMINER**

*Boris L. Chervinsky*  
11/4/4